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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 WILLIAM E. HARRIS,

Case No. 3:20-cv-00557-MMD-CSD

7 Plaintiff,

ORDER

8 v.

9 H. WICKHAM, *et al.*,

10 Defendants.

11 Plaintiff William Harris, who is incarcerated in the Northern Nevada Correctional
12 Center ("NNCC"), brought a civil rights action under 28 U.S.C. § 1983 against multiple
13 NNCC employees. (ECF Nos. 1-1, 4, 43.) Harris' remaining causes of action are Eighth
14 Amendment deliberate indifference claims against Correctional Officer Benjamin Murphy,
15 Dr. Carol Alley, Dr. Michael Naughton, Psychologist Lidia Gamarra-Hoff, Caseworker
16 Sylvia Irvin, and Correctional Officer Candice Madeiros.¹ (ECF Nos. 4 at 6, 9; 43 at 6-8.)
17 Harris filed a motion for partial summary judgment (ECF No. 90 ("Harris' Motion")), and
18 Defendants later filed a cross-motion for partial summary judgment (ECF No. 91
19 ("Defendants' Motion")). Before the Court are the Report and Recommendations ("R&Rs")
20 of United States Magistrate Judge Craig Denney, recommending that the Court deny
21 Harris' Motion, grant Defendants' Motion as to Alley and Naughton, and deny Defendants'
22 Motion as to Gamarra-Hoff. (ECF Nos. 107, 109.) To date, no parties have filed any
23 objections to the R&Rs. (ECF No. 110 ("Harris' Notice of Non-Opposition to the R&Rs").)
24 For the reasons explained below, the Court adopts the R&Rs in full.

25 Because there is no objection, the Court need not conduct *de novo* review, and is
26 satisfied that Judge Denney did not clearly err. *See United States v. Reyna-Tapia*, 328

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28 ¹Defendant Madieros' name is spelled incorrectly on the docket and in filings. (ECF
No. 100-3 ("Declaration of Candice Madieros").)

1 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
 2 recommendations is required if, but *only* if, one or both parties file objections to the
 3 findings and recommendations.”).

4 **I. HARRIS’ PARTIAL MOTION FOR SUMMARY JUDGMENT**

5 Harris brought an Eighth Amendment deliberate indifference claim alleging that
 6 correctional officers and his caseworker at NNCC failed to take remedial actions to
 7 address another inmate’s threats of violence against Harris. (ECF Nos. 4 at 5-6; 43 at 6;
 8 107 at 1-2.) That inmate then attacked Harris with a metal cane, inflicting blunt force
 9 trauma on his head, shoulders, and legs. (ECF Nos. 4 at 6; 43 at 5; 90 at 3-4.) Harris
 10 seeks partial summary judgment as to Defendants Murphy, Madeiros, and Irvin’s liability
 11 for his injuries from the attack. (ECF Nos. 90 at 11; 107 at 2.)

12 Judge Denney concluded that there is a “genuine dispute of fact as to whether the
 13 Defendants knew of and disregarded a substantial risk” to Harris’ safety. (ECF No. 107
 14 at 8.) The parties disagree on whether Harris submitted kites which put Defendants on
 15 notice that another inmate was threatening Harris, how Defendants responded to any
 16 known threats against Harris, and whether Defendants were aware of the assailant’s
 17 propensity for violence. (*Id.*; ECF Nos. 90 at 2-4, 6; 100 at 2-3.) As Harris has not shown
 18 that these are not genuine issues of material fact, Judge Denney recommends denying
 19 Harris’ Motion. (ECF No. 107 at 9.) *See also* FED. R. CIV. P. 56(a). The Court is satisfied
 20 that Judge Denney did not clearly err and adopts his recommendation in full. Plaintiff’s
 21 Motion is thus denied.

22 **II. DEFENDANTS’ PARTIAL MOTION FOR SUMMARY JUDGMENT**

23 Harris also brought two Eighth Amendment deliberate indifference claims arising
 24 from the care, or lack thereof, he received for physical injuries and mental health issues
 25 from the attack. (ECF Nos. 4 at 6-7; 43 at 7.) Harris alleges that, from being beaten with
 26 a metal cane, he sustained numerous injuries, including contusions to his eyes, bruised
 27 ribs, and blunt force trauma to his head. (*Id.* at 6; ECF No. 91 at 2.) A trained expert did
 28

1 not examine the injuries to Harris' eyes and face until months after the attack.² (ECF Nos.
2 4 at 6; 109 at 8-9.) As a result, Harris now suffers from extreme pain and difficulty
3 breathing, and he has been diagnosed as legally blind. (ECF Nos. 4 at 6; 43 at 7.) Harris
4 also claims that the attack caused him to experience anxiety attacks and to have trouble
5 sleeping. (ECF Nos. 4 at 7; 43 at 7.) Despite Harris' multiple requests to see a psychiatrist,
6 there is no evidence that Harris has seen a mental health provider since he was evaluated
7 on November 6, 2019.³ (ECF Nos. 4 at 7; 43 at 6; 109 at 14-15.)

8 Defendants have moved for partial summary judgment on multiple grounds,
9 alleging that (1) Alley, Gamarra-Hoff, and Naughton requested appointments with outside
10 specialists for Harris in a timely manner; (2) Defendants are responsible only for their own
11 actions, not the actions of outside providers or other NNCC medical personnel; and (3)
12 Defendants are entitled to qualified immunity. (ECF No. 91 at 7-10.)

13 Judge Denney recommends that the Court grant Defendants' Motion as to the
14 Eighth Amendment deliberate indifference claims against Alley and Naughton. (ECF No.
15 109 at 13.) Alley and Naughton timely made requests and referrals for Harris to be seen
16 by specialists, and Harris has not presented evidence that his treatment was medically
17 unacceptable or chosen in conscious disregard of the risks to his health. (*Id.* at 12-13.)
18 Accordingly, Judge Denney found that there is no genuine dispute of material fact as to
19 whether Alley and Naughton were deliberately indifferent to Harris' serious medical
20 needs. (*Id.* at 13.)

21 However, Judge Denney recommends that Defendants' Motion be denied as to
22 the claims against Gamarra-Hoff because there is a genuine dispute of fact regarding
23 whether she was deliberately indifferent to Harris' mental health needs. (ECF No. 109 at
24 15.) Harris requested treatment for his allegedly deteriorating mental health following his
25 evaluation on November 6, 2019, but there is no evidence that Gamarra-Hoff responded

26 ²The Court incorporates by reference Judge Denney's recitation of the interactions
27 between Harris and NNCC medical staff. (ECF No. 109 at 7-12.)

28 ³The Court incorporates by reference Judge Denney's recitation of Harris'
psychiatric treatment and requests for the same. (ECF No. 109 at 13-15.)

1 or that any mental health care providers saw him after that date. (*Id.*) Summary judgment
2 is inappropriate as a result. (*Id.*) Judge Denney additionally found that Gamarra-Hoff is
3 not entitled to qualified immunity, as a reasonable fact finder could conclude that she
4 violated Harris' clearly established Eighth Amendment rights. (*Id.* at 15-16.) *See also*
5 *Stewart v. Aranas*, 32 F.4th 1192, 1195 (9th Cir. 2022) ("A delay in treatment can violate
6 the constitution if it results in injury.").

7 The Court is satisfied that Judge Denney did not clearly err and adopts his
8 recommendations in full. Defendants' Motion is granted as to Alley and Naughton and
9 denied as to Gamarra-Hoff.

10 **III. CONCLUSION**

11 The Court is satisfied that Judge Denney did not clearly err. Having reviewed the
12 R&R and the record in this case, the Court will adopt the R&Rs in full.

13 It is therefore ordered that Judge Denney's R&Rs (ECF Nos. 107, 109) are
14 accepted and adopted in full.

15 It is further ordered that Plaintiff's motion for partial summary judgment (ECF No.
16 90) is denied.

17 It is further ordered that Defendants' motion for partial summary judgment (ECF
18 No. 91) is granted as to Defendants Alley and Naughton and denied as to Defendant
19 Gamarra-Hoff.

20 The Clerk of Court is further directed to update Defendant Candice Madieros'
21 name on the docket.

22 DATED THIS 21st Day of November 2023.



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24
25 MIRANDA M. DU
26 CHIEF UNITED STATES DISTRICT JUDGE
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